

~~22~~
~~41~~. Cosmetic, dermal-pharmaceutical or pharmaceutical composition comprising from 0.1% to 10% by weight of an inverted latex as defined in claim ~~25~~.¹¹

~~23~~
~~41~~. The cosmetic composition according to claim ~~22~~, in the form of a milk, lotion, gel, cream, cream-gel, soap, foam bath, balm, shampoo or conditioner.

~~24~~
~~41~~. A soothing composition for sensitive skin, comprising an oil phase, an aqueous phase, at least one water-in-oil emulsifier, at least one oil-in-water emulsifier, the composition being an inverted latex comprising from 20% to 60% by weight of a branched or crosslinked anionic polyelectrolyte formed from at least one monomer possessing a strongly acidic function, copolymerized either with at least one monomer possessing a weakly acidic function or with at least one neutral monomer; the soothing composition further comprising one or more N-acylated amino acids.--

Please charge the fee of \$18 for the extra claim of any type added herewith, to Deposit Account No. 25-0120.

R E M A R K S

The application has been amended as needed so as to place it in condition for disposal at the time of the next Official Action.

In the course of this revision, the Abstract of the Disclosure has been rewritten as a single paragraph, deleting therefrom any legal phraseology. It is believed that the

accompanying Abstract of the Disclosure is in full compliance with 37 CFR §1.72(b) and Section 608.01(b) of the Manual of Patent Examining Procedure (MPEP).

In addition, subject headings have been inserted at the appropriate locations throughout the specification in a manner consistent with the preferred guidelines set forth at 37 CFR §1.77 and Section 601 of the MPEP.

The Official Action had requested a new declaration in compliance with 37 CFR 1.67(a) as the originally-filed declaration did not sufficiently identify the specification to which it was directed.

Reconsideration of the above objection to the declaration is respectfully requested for the following reasons.

As is indicated on page 600-9 of the MPEP, Revision 1 (Feb. 2000), the originally-filed declaration complies with the minimum combinations of information which are considered acceptable for identifying a specification in accordance with 37 CFR 1.63. Indeed, a review of the originally-filed declaration will reveal that it contains **two** combinations of information deemed acceptable in the MPEP, namely: (B) name of inventors, and attorney docket number which was on the specification as filed; or (C) name of inventors and title which was on the specification as filed.

Nevertheless, in order to advance prosecution of this application, applicants submit herewith a new declaration which **also** complies with 37 CFR 1.63.

Claims 1-22 were rejected under 35 USC 112, second paragraph, for indefiniteness. The Primary Examiner's well-taken formal criticisms of these claims were borne in mind as points to be corrected in drafting the new claims. Specifically, new claims 25-49 were drafted in such a manner as to particularly point out and distinctly claim the subject matter regarded by applicants as their invention. When drafting the new claims, great care was taken to ensure that the terms recited therein possess proper antecedent basis. Thus, new claims 25-49 are believed to set out and circumscribe a particular composition, as well as a process for preparing the same, with a reasonable degree of precision and specificity, when read in light of the teachings of the original specification. It is respectfully submitted that a person having ordinary skill in the art would be reasonably apprised of the metes and bounds of new claims 25-49. Accordingly, it is believed that the rejection of claims 1-24 under 35 USC 112, second paragraph, has been overcome and should not be applied to new claims 25-49.

Claims 1-4, 8, 10, 11, 14-16, 22 and 23 were rejected under 35 USC 102(b) as being anticipated by the European reference 0 503 853.

Reconsideration of the above rejection is respectfully requested for the following reasons.

By the present amendment, it will be seen that newly-presented independent claim 25 includes the subject matter formerly recited in claims 1, 4, 5 and 6, thereby

obviating and rendering moot the above-noted anticipatory rejection.

Claims 1-20, 22 and 23 were rejected under 35 USC 103(a) as being unpatentable over ROBINSON et al. 5,185,395. It is concluded that it would have been obvious to one of ordinary skill in the art to have selected optical temperature ranges in molar and weight percent ranges in the composition as taught by ROBINSON et al. with a reasonable expectation of producing a more stable emulsion.

Reconsideration of the above rejection is respectfully requested for the following reasons.

ROBINSON et al. disclose a water-in-oil emulsion of a copolymer of about 10 to 30 weight % AMPS monomer and about 90 to 70 weight % of anionic comonomers which may be acrylic acid, methacrylic acid, itaconic acid, maleic acid, fumaric acid and betacarboxyethyl acrylate and their salts. In addition to AMPS and anionic monomers, the copolymers may also contain minor amounts of additional monomers such as nonionic monomers for example hydroxyethyl acrylate.

The Examiner's attention is respectfully directed to the fact that the copolymers of ROBINSON et al. are neither branched, nor crosslinked, and that they are intended to be used as components of drilling muds for the recovery of oil.

By contrast, the compositions of the present invention were directed to developing new thickening polymers without using monoacrylamide as monomers to be polymerized, due to the new regulations set out on page 1, line 36 to page

2, line 6 of the specification. The copolymer of ROBINSON et al. simply cannot be used as thickeners, because the property of being branched or crosslinked is an essential characteristic for the polymers, to be able to thicken solutions.

Thus, it is respectfully submitted that a person having ordinary skill in the art would not have arrived at the polymer emulsions of the present application, from the technical teachings of ROBINSON et al.

Claims 1-20, 22 and 23 were rejected under 35 USC 103(a) as being unpatentable over the European reference in view of ROBINSON et al. It is concluded that it would have been obvious to one of ordinary skill in the art to have used a process as taught by ROBINSON et al. to produce the emulsion as taught by the European reference, with a reasonable expectation of producing a stable emulsion.

Reconsideration of the above rejection is respectfully requested for the following reasons.

The European reference discloses a water-in-oil emulsion of a cross-linked copolymer of AMPS and acrylamide in a molar ratio between 85/15 and 15/85, preferably between 70/30 and 30/70, most preferably between 65/35 and 35/65, and especially between 60/40 and 40/60, as is stated on page 3, lines 52-54. This emulsion is used in the manufacturing of topical formulations.

As has been explained previously, the polymers of ROBINSON et al. are not thickeners for cosmetics, but useful components of drilling muds for the recovery of oil.

The Examiner's attention is respectfully directed to the fact that the stability, which is taught by ROBINSON et al. is due to a specific choice, namely a combination of two emulsifiers which are sorbitan monooleate plus ABA block copolymers (see the comparison in the examples). The stability is not due to a specific choice of monomers.

Comparative Examples B and C and Example III teach, that a self-inverting emulsion of AMPS methacrylic acid or AMPS acrylic acid is not stable with sorbitan monooleate as the sole emulsifier. Such a combination of emulsifiers has never been included in the present applications.

It is respectfully submitted that when considering the applied references collectively, there would be no reason, motivation or suggestion to combine them in the manner necessary to achieve the herein-claimed invention. Indeed, the combined teachings of the applied references would not have resulted in a composition or a method of preparing the same, having the characteristic features recited in applicants' claims.

The Primary Examiner had kindly indicated claim 24 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form so as to include all of the limitations of the base claim and any intervening claims. By the present amendment, it will be seen that the same has been effected. Specifically, newly-presented claim 49 includes the allowable subject matter formerly recited in claims 1 and 24.

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In view of the present amendment and the foregoing remarks, therefore, it is believed that this application has been placed in condition for allowance. Reconsideration and allowance on the basis of new claims 25-49 are accordingly earnestly solicited.

In the event that there are any questions relating to this amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Respectfully submitted,

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By



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